IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 27521 of 2007(B)

PETITIONER:

SISHEED KUMAR, S/O. P.KANDANKUTTY,
KALYAN TOURIST HOME, PALGHAT.

BY ADV. SRI.T.M.SUNIL
SMT.S.CHITHRA
SRI.A.S.BRIJESH

RESPONDENTS:

TAHSILDAR, PALGHAT.
(ASSESSING AUTHORITY UNDER KERALA BUILDING TAX ACT

BY G.P. SRI. SREEKRISHNA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/09/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 27521 OF 2007

Dated this the 14th day of September, 2007

JUDGMENT

Petitioner is challenging Ext.P3 revised assessment issued under the Kerala Building Tax Act by the Tahsildar pursuant to direction issued by this Court in Ext. P2 judgment. Counsel for the petitioner contended that assessment is wrong in many respects. In the first place sun shade and other areas which do not constitute plinth area have been measured. Similarly, dog shade, dove shade, water tank, boiler room, etc., are also measured contrary to the provisions of the Act. Since a decision on the extent of plinth area and the areas that constitute plinth area for the purpose of the Act is required, petitioner has to necessarily file appeal before the RDO. Having regard to the contentions raised I dispose of the W.P. directing the RDO to get a detailed measurement report on the plinth area of the hotel of the petitioner by Asst. Exe. Engineer of the PWD, who while taking measurement should describe the nature of area and it's use and measurement for the RDO to decide the appeal. RDO will hear the petitioner after getting report from the

Asst. Exe. Engineer, PWD and after serving a copy of report to the petitioner and dispose of the appeal within three months from the date of filing the appeal. In view of payment made by the petitioner and the balance tax due and the nature of dispute, there will be stay against recovery proceedings for four months from now on petitioner remitting a further sum of Rs. 50,000/- within two weeks from now. Petitioner will remit the amount and along with appeal produce copy of receipt. If appeal is filed along with copy of receipt as stated above, RDO will get the measurement done by Asst. Exe. Engineer PWD and dispose of the appeal as stated above. Recovery of the balance will be based on orders in appeal.

(C.N.RAMACHANDRAN NAIR)
Judge